

under the Attorney General because he could be advising everybody on everything and say it is final word because there would be no other counsel. If this is where it is leading, I am opposed to it. The amendment by Senator Schmit merely states what the intent of the Legislature was when they set up house counsel, and that is telling them, you have house counsel and that is as far as you go. I think the Patrol understood it except they hung their hat on some technicalities and the technicalities are taken care of in the Schmit amendment which strikes the words "and prosecution" and makes it very plain that they will not be investigator, advisor, not go out on the raid and make the arrest with the trooper and then go in and decide whether they are going to prosecute, which is a dual position, and then prosecute. That is all this is saying. Now, on the other hand, if you are going to argue that, well, we don't want it that way anyway, then you don't need to do anything because you can just forget LB 294 and let the Attorney General handle it anyway because he can advise county attorneys in these cases. He can supply help to the county attorneys in these cases anyway and has done so in the past. The only thing is it will be incumbent upon the Attorney General, then, to ask for more money for his department to have more lawyers to do the job. So if you don't want the Patrol to have house counsel, vote for LB 294. If you do want the Patrol to have house counsel which I think has been extremely helpful to law enforcement in this state, vote for the amendment, the Schmit amendment, and I think in either case, you are going to get what the Legislature intended in the first place several years ago which would have worked had they followed the law in the first place.

PRESIDENT: Senator Barnett.

SENATOR BARNETT: Mr. President, members of the Legislature, it is not often that I disagree with Senator Luedtke but this may be one case where I have to. He made a statement, Senator Luedtke, that go ahead and adopt 294 and you don't have any legal counsel for the State Patrol which would not be quite true. Okay, house counsel, even that would not be quite true because if you will pay attention to the bill and look at it, where it says on line 11 and 12, the attorneys stationed with the Nebraska State Patrol, that question was asked specifically and there was no objection to keeping the counsel with the State Patrol even in different parts of this state under the Attorney General's direction. This was brought out. The reason under 175 or the reason we had this problem arise, and I think you will have to agree with this, and this is a difference in philosophy only, the difference between 175 and 294. If you want, as you have said, the legal counsel under the State Patrol you leave it on 175 and take him out of the prosecution as that was the conflict that was stated by the hearings the Judiciary Committee had before this session started. There was a way to get them out of it. If you adopt 294, the theory is that you will take it and let the attorneys or legal counsel for the State Patrol stay under the Attorney General but can be with the State Patrol. They can be. They could be at the headquarters out here under the direction of the Attorney